

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 1868 of 1997

to

FIRST APPEAL No 1879 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE Y.B.BHATT and

Hon'ble MR.JUSTICE C.K.BUCH

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

STATE OF GUJARAT

Versus

NOORMAHMAD VALIBHAI RAJPURA

Appearance:

MR SJ DAVE, AGP for Appellants

CORAM : MR.JUSTICE Y.B.BHATT and
MR.JUSTICE C.K.BUCH

Date of decision: 05/05/98

ORAL COMMON JUDGEMENT (PER : Y.B.BHATT, J)

Heard the 1d. counsel for the appellants.

2. These are appeals filed by the State of Gujarat

under Sec.54 of the Land Acquisition Act read with Sec.96 of the CP Code, challenging the common judgment and awards passed by the Reference Court under Sec.18 of the said Act.

3. The lands under acquisition are situated in village Dedhrota, Ta: Himmatnagar, Dist.: Sabarkantha for the implementation of Guhai Irrigation Project. The relevant notification under Sec.4 was published on 12.6.1987. After following the requisite procedure, the Land Acq.Officer declared his award on 2.1.1990. The original landholders not having accepted the awards, preferred Reference Applications under Sec.18, which came to be heard and decided by the impugned judgment and awards in question. The Reference Court determined the market value of the acquired lands at the rate of Rs.400/ per Are for non-irrigated land and Rs. 500/ per Are for irrigated land.

4. During the course of hearing, the ld. counsel for the appellant sought to assail this finding by making an attempt to persuade us to take another view of the evidence on record. However, inspite of the best efforts of the ld. counsel, we are unable to hold that the fixation of the market value on the part of the Reference Court, is in any way, excessive.

5. The impugned judgment, taken in its overall perspective, is in our opinion, not assailable. We agree with the assessment of the evidence on the part of the Reference Court, conclusions drawn therefrom and the findings of fact recorded.

6. On the aspect of the appreciation of the evidence on record, only one aspect is of consequence. In this context, we may mention Exh.41, which is a common judgment and awards of the Reference Court under Sec.18 in another acquisition case. The lands which were the subject matter of valuation in Exh.41 were acquired under a notification of the very same day as in the instant case namely 12.6.1987. However, the lands were situated in a village which was at a distance of 5 to 6 kms. from the village in the instant case namely Dedhrota. The Reference Court was quite conscious of the fact that although the two notifications are of the identical date, this distance between the two villages is not without significance. The Reference Court found on a question of fact that the lands situated in the village Dedhrota (in the instant case), are not merely at some distance, but are further into the interior part of the district, which naturally places them at a larger distance from

communication, transport facilities and other amenities and facilities necessary for agriculture and infrastructure support etc. Consequently, the Reference Court awarded a slightly lower figure of Rs. 400/ per Are for non-irrigated land and Rs. 500/ per Are for irrigated land.

7. Thus on an overall perspective of the matter, we are unable to be persuaded to the view canvassed by the ld. counsel for the appellant.

8. Even otherwise, our attention has been drawn to two decisions of this very Bench which would be of relevance. One of decision has been rendered by this Bench in First Appeal No. 818/90 (group) dated 5.2.1998 whereunder we had considered the acquisition of lands for the very same project under a notification under Sec.4 dated 27.5.1982, that is to say, about five years prior to the instant acquisition. Although the acquisition in the said decision is five years prior to the instant notification, we had determined the value of irrigated land at Rs. 678/ per Are and at Rs. 468/ per Are for non-irrigated land, which in our opinion, amply justifies the valuation put by the Reference Court upon the lands under instant acquisition, after making due allowance for the difference in dates of two notifications under Sec.4.

8.1 Our attention has also been drawn to another decision of this Bench dated 27.4.1998 in First Appeal Nos. 3842/97 and 3843/97, wherein we had considered the question of appropriate valuation of the acquired lands located in village Savli, which were acquired for the very same project under a notification under Sec.4 of the said Act dated 26.7.1990, that is to say, just three years subsequent to the instant acquisition. Here also, making allowance for the distance between village Savli and the instant village Dedhrota, we find that the valuation put by the Reference Court upon the acquired lands and particularly for irrigated land at Rs.500/ per Are cannot in any manner be said to be excessive. Once again it is found, that even when these decisions by this Bench are regarded only to be in the nature of corroboration, and once it is found that the valuation for the irrigated land in the instant case at Rs.500/ per Are is entirely justified, it also follows apart from other justification on the merits of the matter, that the valuation of non-irrigated land at Rs. 400/ per Are also stand justified.

9. No other contention or point has been raised.

10. In the result therefore, the impugned judgment and awards require to be confirmed and are accordingly confirmed. These appeals are therefore dismissed with no orders as to costs.

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